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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,407	01/26/2001	Katsumaru Ohno	Q62879	4711

7590 12/21/2004  
SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

EXAMINER
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PHU, PHUONG M

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/769,407

Applicant(s)

OHNO, KATSUMARU

Examiner

Phuong Phu

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2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 13-16 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 9/3/04.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4 and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Atarius et al (6,373,882), newly-cited.

-Regarding to claims 1 and 4, see figure 4, and col. 4, line 58 to col. 6, line 65, Atarius et al discloses a method and associated system comprising:

path monitoring step/means (415, 320, 340) for monitoring the path information from searcher (405) to produce a detection signal (inputted to means (415) from means (340)) when main propagation paths (outputted from means (320) are stable or not (e.g., varied slow or fast)

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for a predetermined time interval (in term of a measured variation rate of environment in a period of time) (see col. 4, lines 58-67, col. 4, lines 40-49 and col. 6, lines 11-42); and

searcher operation controlling step/means (415) for controlling, in response to said detection signal, said searcher to make said searcher intermittently operate at a predetermined intermittent period (activation/deactivation period/frequency) (see col. 4, lines 40-49 and col. 6, lines 11-42).

-Regarding to claims 13 and 14, in Atarius et al, wherein said main propagation paths are stable for a predetermined time interval, specially, in the case of the environment has been unchanged for said predetermined time interval, said variation rates of previously identified main propagation paths inherently coincide with the ones of currently identified main propagation paths throughout said predetermined time interval.

-Regarding to claims 15 and 16, see figure 4, and col. 4, line 58 to col. 6, line 65, Atarius et al discloses a method and associated system comprising:

searcher step/means (405) of periodically searching a received multipath signal; and path monitoring and searcher operation controlling step/means (410, 415, 320, 340) of identifying main propagation paths in said searched signal; monitoring said identified main propagation paths; and reducing the frequency of said searching (activation/deactivation frequency) when said identified main propagation paths have not changed or have changed in a slow variation rate for a predetermined period of time comprising time in measuring said variation rate (see col. 6, lines 11-42).

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***Allowable Subject Matter***

4. Claims 2, 3 and 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 571-272-3009. The examiner can normally be reached on M-F (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/14/04  
Phuong Phu

**PHUONG PHU**  
**PRIMARY EXAMINER**

Phuong Phu  
Primary Examiner  
Art Unit 2631